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CDC
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CDC Policy Memo 4-12

From: Chief Defense Counsel of the Marine Corps
To: Distribution List

Subj: DEFENSE SERVICES ORGANIZATION FISCAL YEAR 2013 TRAINING PLAN

Ref: (a) MCRP 3-0A (Unit Training Management Guide)
(b) MCRP 3-0B (How to Conduct Training)
(c) MCDP 5 (Planning)
(d) Marine Corps Training and Readiness Manual (4400s) of Jan 2010
(e) Marine Corps Legal Services Strategic Action Plan 2010 to 2015

Encl: (1) Approved Training Events

1. Purpose. To establish a training plan for the Marine Corps Defense Services Organization (DSO) for Fiscal Year 2013 that sets annual training requirements specific to defense services that are consistent with the references in order to improve the practice of law within the DSO.

2. Objectives.

- a. To formalize defense related training within the DSO.
- b. To reinforce proficiency in basic knowledge and skills expected of all members of the DSO.
- c. To identify and prioritize essential subject matter for training.
- d. To set training responsibilities among the Chief Defense Counsel of the Marine Corps (CDC), Regional Defense Counsel (RDC), Senior Defense Counsel (SDC), and the Reserve Branch.
- e. To identify training opportunities for members of the DSO from military, public, and private sector sources.
- f. To establish a training schedule that provides for meaningful training opportunities with enough advance notice of those training events to allow for maximum participation and minimal impact on the docketing of cases. To this end, the dates established in the enclosure were coordinated with the Trial Counsel Assistance Program (TCAP), the Officers-in-Charge, Legal Services Support Sections (OIC, LSSS), and the Chief Judge, Navy-Marine Corps Trial

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Judiciary. Regional Defense Counsel (RDC) may modify the attached schedule, but only after coordinating with the Circuit Military Judges in their region to ensure the judicial docket can support the modified schedule.

3. Approach to Training.

a. Training Principles. Many of the Marine Corps' training principles contained in reference (a) apply to training of Defense Counsel and Legal Services Specialists to ensure effective representation of Marines and other servicemembers. The training principles articulated in reference (a) are restated below along with an explanation of their application to training for Defense Counsel and Legal Services Specialists.

(1) Train as You Fight. "All peacetime training must reflect battlefield requirements." Training for our defense counsel and legal services specialists should seek to prepare them for the stressful, complex, and rigorous nature of litigation.

(2) Make Commanders Responsible for Training. "Commanders at all levels are responsible for the training and performance of their Marines." This training plan will define training responsibilities and requirements for the CDC, RDCs, SDCs and our Reserve Branch.

(3) Use Standards-Based Training. Identifying standards and training to those standards establishes a common foundation and frame of reference for all members of the DSO.

(4) Use Performance-Oriented Training. Our training must be designed to improve performance. Training should not be conducted just to meet a requirement. Rather, the requirement is an opportunity to make our defense counsel and legal services specialists better.

(5) Use Mission-Oriented Training. "The mission analysis provides a careful assessment of possible warfighting missions, identifies specified and implied tasks, and is the foundation for the mission essential task list (METL)." By identifying the minimum tasks that our defense counsel and legal services specialists must be able to competently perform, we can better develop and prioritize training.

(6) Train the MAGTF to Fight as a Combined-Arms Team. Whenever possible, we must integrate our legal services specialists into our training program. We must, consistent with our ethical rules, emphasize teamwork among the DSO where appropriate. To better represent our clients, we should strive for a better defense team, not just to be better defense counsel and legal services specialists.

(7) Train to Sustain Proficiency. "To sustain proficiency, commanders must continuously evaluate performance and design training programs that correct weaknesses and reinforce strengths. This means training year round, not focusing training on one or two key events during the year." Consequently, this training plan will emphasize continuous training.

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(8) Train to Challenge. “If training is a challenge, it builds competence and confidence by developing new skills.” We must always adapt and evolve our training, while ensuring we emphasize proficiency in the basic knowledge and skills required to zealously and effectively represent our clients.

b. General Training Priorities. Consistent with reference (b), my training priorities are as follows:

(1) Mission-Oriented. Our primary focus will be to train the members of the DSO to provide them with the knowledge, skills, and attitude necessary to effectively represent Marines and Sailors.

(2) Formal. We will train our defense counsel and legal services specialists in a formal setting in order to comply with directive requirements, such as state bar continuing legal education (CLE) requirements or any other such requirements.

(3) Ancillary. Ancillary training can be conducted as opportunity training when there is a lull in mission-oriented or formal training activities. This type of training concerns subjects that are usually ancillary to the DSO mission and, consequently, should be prioritized last.

c. Specific Training Priorities. The following training topics are priorities and intended to guide RDCs, SDCs, and the Reserve Branch during the development of training events. They are not listed in a strict order of priority and they are not all-inclusive.

(1) Suicide Awareness and Prevention. More than forty percent of Marines who commit suicide had a pending legal matter at the time of their death. Suicide awareness and prevention must be trained at every level and is a top priority.

(2) Ethics/Professional Responsibility. This topic must be trained continuously at all levels with an emphasis on JAGINST 5803.1D and my Rule #1 “Professionalism Always” and focusing on the rules governing confidentiality, conflicts of interests, severance of the attorney-client relationship, and the requirement to go up the DSO chain prior to making allegations of prosecutorial misconduct or ethical violations by trial counsel.

(3) Sexual Assault Training. Sexual Assaults make up a large portion of our practice and have captured the attention of Congress, the Commandant of the Marine Corps, and others. As a result, the prosecution function has received substantial funding to train to handle sexual assault cases. We must continue to train our counsel to handle these cases to ensure our counsel maintain currency on the law and adapt to the advances made by in the prosecution of sexual assaults.

(4) The Judge Advocate/Legal Services Specialist Team. With the dramatic increase in support provided to the prosecution function as a result of the legal community’s reorganization, our legal services specialist play an even larger role in the zealous, ethical, and effective representation of our clients. We must include our legal services specialist in our training events, and ensure that they are incorporated into every asset of our case planning.

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(5) Trial Advocacy. This includes all aspects of litigation including voir dire, openings, closings, as well as direct and cross examinations.

(6) Effective Sentencing Cases. Given that most courts-martial include a sentencing phase, proficiency in presenting sentencing cases is an absolute requirement.

(7) Negotiation and Pre-Trial Agreements. A case can be “won” simply by closing an advantageous pre-trial agreement.

(8) Common Case Training. Many cases involve similar fact patterns or common charges. Drug use and distribution, unauthorized absence and child pornography cases are examples. Our defense counsel and legal services specialists need to understand all aspects of these cases and utilize lessons learned from other cases to best represent their clients.

(9) Expert Witnesses. This includes both effective use of expert testimony and effective cross-examination of experts.

(10) Administrative Separation Boards and Boards of Inquiry. Marine Corps units are using these options in much greater numbers and as a consequence members of the DSO need to master these forums and processes.

(11) Motions Practice. This must emphasize efficient and effective pre-trial litigation.

(12) Interrogation Techniques of Law Enforcement. Given the importance members place on confessions, defense counsel must understand the techniques used by law enforcement when conducting a case analysis or preparing to cross-examine law enforcement personnel.

d. Training Opportunities. As set forth in the enclosure, the CDC will host a DSO training conference annually, each RDC will conduct three regional training sessions, and each SDC will conduct training twice each quarter. Additionally there are numerous training opportunities for individual members of the DSO throughout the fiscal year.

e. Training Requirements.

(1) CDC and OIC-DCAP.

(a) Attend at least one continuing legal education course during FY-13.

(b) Conduct an annual training event during the second quarter.

(c) Train the RDCs collectively once per quarter. This training can be combined with other training opportunities. For example, the attendance of all RDCs at the annual SJA to CMC conference will satisfy this quarterly training requirement.

(d) Attend at least two RDC quarterly training sessions during FY-13.

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(2) RDCs.

(a) Train collectively with the CDC once per quarter and attend at least one continuing legal education course during FY-13.

(b) With the support of the Reserve Branch and DCAP, train all defense counsel and legal services specialists in the region once per quarter. The CDC's annual training will satisfy this requirement during second quarter. Each RDC's training event must include a block on suicide awareness and prevention and one of the three training events must be focused on litigating sexual assault cases.

(c) Attend an SDC monthly training session in each branch office within your region during FY-13.

(d) Train each newly assigned defense counsel and legal services specialist on expectations of serving with the DSO.

(e) Publish a training plan for your region by 15 October 2012.

(3) SDCs.

(a) Attend the CDC's annual training event, the RDC quarterly training sessions, all training events offered by the local trial judiciary, all mandatory training events required by your LSSS OIC, and, subject to budgetary constraints, at least one individual continuing legal education course during FY-13.

(b) Train all defense counsel and legal support specialists in your office twice per quarter on topics approved by their RDC.

(4) Defense Counsel. Attend the CDC's annual training event, the RDC quarterly training sessions, SDC monthly training, all training events offered by the local trial judiciary, all mandatory training events required by your LSSS OIC, and, subject to budgetary constraints, at least one individual continuing legal education course during FY-13.

(5) Legal Services Specialists. Attend the CDC's annual training event, relevant RDC quarterly training sessions, SDC monthly training, all mandatory training events required by the LSSS OIC and Legal Chief, and, subject to budgetary constraints, at least one individual continuing legal education course during FY-13.

(6) Reserve Branch.

(a) Branch Head.

1. Attend the CDC's annual training event.

2. Attend at least two RDC quarterly training sessions during FY-13.

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(b) Reserve RDCs.

1. Attend the CDC's annual training event.
2. Attend at least two RDC quarterly training sessions your region.
3. Attend additional training as directed by the CDC, RDC or Reserve Branch Head.

(c) Reserve Training Officers.

1. Attend the CDC's annual training event.
2. Attend and support all RDC quarterly training sessions in your region.
3. Support all and attend at least one SDC monthly training in your region
4. Attend additional training as directed by the CDC, RDC or Reserve Branch Head.

4. Actions.

a. Officer-in-Charge, Defense Counsel Assistance Program.

(1) Under the supervision of RDC - NCR, oversee the implementation of this Training Plan to ensure the DSO meets the training requirements set forth in the paragraphs above.

(2) Act as the liason between the DSO and the Judge Advocate Support Branch for JAS solicited continuing legal education opportunities.

(3) Assist the CDC in planning the CDC's annual training event.

a. Regional Defense Counsel.

(1) Meet the training requirements set forth in the paragraphs above on the dates established in the enclosure.

(2) Ensure all defense counsel and legal services specialist within your region complete the appropriate training requirements set forth in the paragraphs above.

(3) Coordinate funding with your LSSS, OIC for training for the defense counsel and legal services specialist in your region.

(4) Prioritize nominees within your region for attendance at CDC/JAS solicited continuing legal education opportunities and submit these nominations to DCAP within the timeline proscribed in the solicitation.

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(5) Assist the CDC in planning the CDC's annual training event.

(6) Meet periodically with the Circuit Judges within the region to identify trends and problem areas to incorporate into the regional training plan.

(7) Ensure records of all training are kept on file in your region and a copy of class rosters are forwarded up to DCAP at the end of each quarter.

(8) Ensure new personnel in your region are briefed on training requirements.

b. Senior Defense Counsel.

(1) Meet the training requirements set forth in the paragraphs above.

(2) Ensure all defense counsel and legal services specialist within your office complete the appropriate training requirements set forth in the paragraphs above.

(3) Keep records of all training conducted and forward to the RDC on a monthly basis.

(4) Brief new Defense Counsel and Legal Services Specialists on training requirements.

c. Reserve Branch.

(1) Meet the training requirements set forth in the paragraphs above.

(2) Assist the CDC and RDC in developing training programs.

5. Applicability. The training plan is applicable to the entire DSO.



J. G. BAKER

Distribution List:

SJA to CMC

Legal Chief of the Marine Corps

LSSS OICs

TCAP

All members of the DSO

NMCTJ Code 52, OJAG

Joint Defenders Committee

DSO/TCAP Joint Training Plan

Dates in **Bold** – No Courts Scheduled in the Regions Indicated

1st Qtr

19 Oct – Morning Only – STC/SDC Monthly Training

22 – 26 Oct – SJA Conference – CDC/RDCs/TCAP/RTCs only

24 – 27 Oct – NACDL- Defending Sexual Assault & Child Abuse Cases – DCs only

31 Oct – 1 Nov – VWLO Conference – TCs only

2 Nov – Morning Only – STC/SDC Training

26 Nov – 7 Dec – Paralegal Research and Writing

29 – 30 Nov – RDC East and NCR Training – RDC Focus – DC 101/Work Habits

6 – 7 Dec – RDC West and Pacific Training – RDC Focus – DC 101/Work Habits

7 Dec – STC Monthly Training

2nd Qtr

4 – 8 Feb – Basic Trial Advocacy Course at NJS

11 – 22 Feb – Paralegal Research and Writing

28 – 1 Feb - CDC Conference/TCAP East Coast Training for LSSS East and NCR

22 Feb – Mornings Only – STC/SDC Training

11 – 15 March - TCAP West Coast for LSSS West and Pacific

15 March – Morning Only – STC/SDC Training

3rd Qtr

5 – 6 Apr – NACDL – 6th Annual Forensic Science Seminar – DCs only

17 – 19 Apr – RDC Training – RDC Focus – Defenses/Sex Assault

19 Apr – Morning Only – STC Training

29 Apr – 3 May – East Coast TC and DC Orientation Courses – Location TBD

10 May – Morning Only – STC/SDC Training

13 – 24 May – Military Justice Course for Trial and Defense Chiefs

20 – 24 May – Litigating Complex Cases at NJS

7 Jun – Morning Only – STC/SDC Training

17 – 21 Jun – Career Prosecutors Course at TJAGLCS – TCs only

4th Qtr

17-18 July – TCAP MTT in NC / RDC Training – RDC Focus – Evidence/TRIAD

12 - 16 Aug - Defending and Prosecuting Sexual Assault Courses – will impact docketing

23 Aug – Morning Only – STC/SDC Training

9 – 13 Sep – West Coast TC and DC Orientation Courses – Location TBD

18 – 20 Sep – TCAP MTT Training for LSSS West Coast & Pacific in CA

20 Sep – SDC Training